



**US Army Corps
of Engineers
Portland District**

SECTION 107

Authority for: SMALL NAVIGATION PROJECTS

WHAT CAN THE CORPS DO? Section 107 of the River and Harbor Act of 1960, as amended, provides authority for the Corps of Engineers to plan and construct small navigation projects that have not already been specifically authorized by Congress. A project is accepted for construction only after detailed investigation shows its engineering feasibility, environmental acceptability, and economic justification. Each project must be complete within itself, not a part of a larger project. The maximum federal expenditure per project is \$4 million, which includes both planning and construction costs. Any additional costs must be paid by the non-federal sponsor. Costs of lands, easements, and operation and maintenance of the project (other than certain maintenance dredging) must be non-federal.

Federal funds can be expended only for general navigation facilities, which may include safe entrance channels leading to an anchorage basin or berthing area, including breakwaters or jetties, if needed, protected anchorage basins, and protected turning basins, and necessary access channels. Federal maintenance is limited to dredging the access, entrance, and main channels and maintenance of breakwaters or jetties.

After a State or local agency requests a potential project, the Corps will conduct a feasibility study if it appears the problem may have a federal interest and if funds are available. The feasibility study begins at federal expense. After approximately \$20,000 has been expended, a decision is made as to whether to continue the study and whether cost sharing is likely to be needed. Study costs in excess of \$100,000 are shared 50/50 with the non-federal sponsor according to a Feasibility Study Cost Sharing Agreement (FCSA). In the feasibility study the problem is defined, the federal interest is determined, potential solutions are identified, and the most feasible plan is chosen. The costs, benefits, and environmental impacts of the potential project are analyzed. A draft project cooperation agreement (PCA) is drawn up by which the federal government and the sponsor agree to share project costs. No more than 3 years should pass between the start of the feasibility study and the time the project is ready for construction, with plans and specifications essentially complete and the PCA approved.

During construction the local sponsor must pay 10 percent of the construction costs for the breakwater, entrance channel, and maneuvering area for projects 20 feet deep or less. (For projects more than 20 but less than 45 feet deep, the sponsor must pay 25 percent.) The sponsor must pay an additional 10 percent over 30 years; the value of lands, easements, and rights-of-way may be credited toward this amount. Any costs over the \$4 million federal limit must be paid by local interests.

WHAT ARE THE LOCAL RESPONSIBILITIES? Costs for Section 107 small navigation projects are shared between the federal government and a non-federal sponsor in accordance with the Water Resources Development Act of 1986, as amended. Docks, landings, piers, berthing areas, boat stalls, mooring facilities, launching ramps, access roads, parking areas, and any interior access channels

needed for maneuvering into berths are entirely a local responsibility and are constructed and maintained at non-federal expense.

The local sponsor (a State or local government) must have the legal and financial capability to fulfill the requirements of cost sharing and local cooperation. The sponsor generally must agree to the following:

- Contribute in cash the local share of project planning and construction cost;
- Provide, without cost to the United States, all lands, easements, and rights-of-way necessary for the construction and maintenance of the project, including suitable disposal areas for dredged material, with any necessary retaining dikes, bulkheads, and embankments or the cost thereof;
- Hold and save the United States free from damages due to the construction and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors;
- Maintain and operate all the non-federal works after completion in accordance with regulations prescribed by the Secretary of the Army;
- Provide and maintain berthing areas, floats, piers, slips, and similar marina and mooring facilities as needed for transient and local vessels, as well as necessary access roads, parking areas, and other needed public use shore facilities open and available to all on equal terms. (Only minimum, basic facilities and services are required as part of the project.)

HOW CAN A STUDY BE REQUESTED? We may begin a Section 107 study after we receive a written request from the prospective sponsor. A sample letter is offered below.

*U.S. Army Corps of Engineers, Portland District
ATTN: Planning
P.O. Box 2946
Portland, Oregon 97208-2946*

Dear Sir:

This letter is to request the U.S. Army Corps of Engineers to conduct a study under Section 107 of the River and Harbor Act, as amended, to determine the feasibility of developing a small navigation improvement at (location).

(Briefly describe the nature of the navigation improvement and any issues that might affect the acceptability of any recommended solutions, from the perspective of local government and/or the public.)

It is understood that, if the study indicates a project with a federal interest is likely, the (non-federal sponsor) would be required to enter into a contract to pay half the cost of the feasibility study after the first \$100,000. Further, if it is found feasible to develop a navigation project at (location), the (non-federal sponsor) would agree to provide the local cooperation and cost sharing prescribed by the Secretary of the Army.

Please contact (name, address, telephone) for further information.

*Sincerely,
(Name and title of public official authorized to request study)*